

Chapter Ag 96

MARKETING ORDER FOR RED TART CHERRIES

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Ag 96.01 Definition of area. This order shall be applicable to all red tart cherries produced in Door and Kewaunee counties for processing.

History: Emergency rule, eff. 7-15-59; cr. Register, August, 1959, No. 44, eff. 9-1-59.

Ag 96.02 Definition of terms. (1) "Secretary" means the secretary of the state of Wisconsin department of agriculture.

(2) "Cherries" means and includes all varieties of red tart cherries.

(3) "Processor" means any person, firm, cooperative association, corporation, partnership, company or other business unit which performs any of the functions of processing red tart cherries.

(4) "Process" and "Processing" are synonymous terms and mean the operation of canning, packing, freezing, preserving or otherwise preparing red tart cherries as herein defined for marketing in any other form than for fresh consumption.

(5) "Producer" means any person engaged in the business of producing or causing to be produced cherries for processing.

History: Emergency rule, eff. 7-15-59; cr. Register, August, 1959, No. 44, eff. 9-1-59; am. (1), Register, October, 1974, No. 226, eff. 11-1-74.

Ag 96.03 Advisory council. (1) **MEMBERSHIP.** An advisory council is established consisting of 4 members to assist the secretary in the administration of this marketing order. Two members shall be elected by the producers in the area north of the town of Sevastopol and 2 members shall be elected by the producers in the town of Sevastopol and all areas south, including Kewaunee county. Advisory council members shall be producers in the area which they represent. There shall be an alternate member for each member of the council. Members shall be nominated and elected in accordance with the provisions of the Wisconsin Agricultural Marketing Act (ch. 96, Wis. Stats.). In the event nominations are not made pursuant to such act and within the time specified, the secretary may nominate members and alternate members. Alternate members shall be those individuals who receive the next highest number of votes as recorded in the election of advisory council members. An alternate member of the council shall in the absence of the member for whom he is alternate sit in the stead of such member and shall assume the rights and privileges accorded the regular member. In the event of death, removal, resignation or disqualification of a member, the alternate member shall become his successor.

(2) **TERM OF OFFICE.** The term of office of the members and alternate members shall be 3 years. The term of office shall commence

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with the effective date of this order and all members shall serve until their successors have been elected.

(3) **VACANCIES.** To fill any vacancy the secretary shall call for an election as provided for in the Wisconsin Agricultural Marketing Act.

(4) **DUTIES.** The duties of the council shall be advisory only and may include the following:

(a) To recommend to the secretary administrative rules relating to the marketing order.

(b) To receive and report to the secretary complaints of violations of the marketing order.

(c) To recommend to the secretary amendments to the marketing order.

(d) To advise the secretary in the assessment of members of the industry and in the collection of funds to cover expenses incurred by the secretary in the administration of this order.

(e) To advise the secretary in the collection of such information and data as the secretary may deem necessary to the proper administration of this order.

(f) To advise the secretary in the administration of this order.

History: Emergency rule, eff. 7-15-59; cr. Register, August, 1959, No. 44, eff. 9-1-59; am. Register, October, 1974, No. 226, eff. 11-1-74.

Ag 96.04 Assessments. (1) Each producer for the crop year 1959 shall be liable for an assessment of one-tenth cent (.1¢) per pound net weight on all cherries delivered to a processor. Thereafter the secretary shall annually set the rate of assessment but in no event shall it exceed 2% of the gross dollar value of the crop marketed.

(2) It shall be the duty of each processor to deduct such assessment from any amounts due to producers for cherries received by him for processing.

(3) It shall be the duty of each processor to pay to the secretary all such assessments levied and collected. One-half of the sum so collected shall be remitted on or before September 1 of each year. The balance shall be remitted on or before December 31 each year.

(4) In the event of the failure of any processor to collect the assessments levied hereunder, such processor shall be personally liable for such assessments.

(5) In the event of failure of any person to pay any assessments payable hereunder, the secretary may bring an action against such person in a court of competent jurisdiction for collection thereof.

(6) Upon termination of this order, any assessment monies collected and not expended shall be returned to the affected producers entitled thereto.

History: Emergency rule, eff. 7-15-59; cr. Register, August, 1959, No. 44, eff. 9-1-59; am. Register, October, 1974, No. 226, eff. 11-1-74.

Ag 96.05 Reports. To determine compliance with the provisions of section Ag 96.04 the secretary may require:

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(1) Each processor to report to the secretary the name of each producer, quality and quantity of cherries marketed, price per pound, and gross dollar value of the cherries marketed.

(2) Each processor to submit such additional reports and information from time to time as may be necessary.

(3) Each producer to file such reports as he may deem necessary to effectuate the administration of the order.

History: Emergency rule, eff. 7-15-59; cr. Register, August, 1959, No. 44, eff. 9-1-59; am. Register, October, 1974, No. 226, eff. 11-1-74.

Ag 96.06 Advertising and sales promotion. (1) The secretary shall prepare and carry out a program for advertising and promoting red tart cherries.

(2) In carrying out plans and activities authorized in this section, the secretary may enter into contracts with any person or persons including the Wisconsin red cherry growers' association and national red cherry institute to render services and supply materials in connection therewith.

(3) Such plans and programs may consist of but not be limited to plans for advertising, dealer service work, trade promotion, publicity, market development, and expansion activities, the presentation of facts to and negotiations with state or federal agencies on matters which affect the marketing of cherries produced in this area or such other activities and programs which are consistent with the objectives of this marketing order.

(4) Plans and programs promulgated pursuant to this section shall be directed toward promoting the sale of cherries without reference to any particular private brand or trade name and advertising and sales promotion programs so promulgated shall not make use of false or unwarranted claims on behalf of cherries nor disparage the quality, value, sale or use of any other agricultural commodity.

History: Emergency rule, eff. 7-15-59; cr. Register, August, 1959, No. 44, eff. 9-1-59; am. Register, October, 1974, No. 226, eff. 11-1-74.

Ag 96.07 Research and survey studies. The secretary may carry on or cause to be carried on research and survey studies in production, packing or distribution of red tart cherries. Such research and survey studies may include, but shall not necessarily be limited to, developing objective quality and maturity factors for cherries, improving methods and techniques of harvesting cherries, the development of more disease resistant cherries for marketing, determining the special nutritive qualities of cherries produced in this area, carrying on container and packaging research studies, and improving packing and handling techniques which promote more efficient operation in the handling or distribution of cherries. The secretary, in addition to the activities enumerated above, may carry on any other necessary and proper research and survey activities consistent with and subject to the restrictions and limitations of the Wisconsin Agricultural Marketing Act.

History: Emergency rule, eff. 7-15-59; cr. Register, August, 1959, No. 44, eff. 9-1-59; am. Register, October, 1974, No. 226, eff. 11-1-74.

Note: Section 96.08, Wis. Stats., provides that every marketing order shall terminate 3 years from the date of its issuance or last assent, but that a referendum shall be conducted within 6 months of the expiration of such 3-year period to determine whether the marketing

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order shall remain in effect. Since its original adoption in 1959, Wis. Adm. Code chapter Ag 96, the marketing order for red tart cherries, has been extended for successive 3-year periods by referenda conducted in accordance with requirements of section 96.08, Wis. Stats. Its continuation for an additional 3-year period was assented to by producers of red tart cherries in a referendum conducted during a 75-day period ending May 14, 1977, and will, therefore, remain in effect for a further period of 3 years expiring July 15, 1980.